



**Cour
Pénale
Internationale**

**International
Criminal
Court**

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The ICC at a Glance



Photo: Simon Bosch

The International Criminal Court (ICC), governed by the Rome Statute, is the first permanent, treaty-based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community. The ICC is an independent international organisation, and is not part of the United Nations system. Its seat is at The Hague in the Netherlands. Although the Court's expenses are funded primarily by States Parties to the Rome Statute, it also receives voluntary contributions from governments, international organisations, individuals, corporations and other entities.

The international community has long aspired to the creation of a permanent international court and, in the 20th century, it reached consensus on definitions of genocide, crimes against humanity and war crimes. The Nuremberg and Tokyo trials addressed war crimes, crimes against peace, and crimes against humanity committed during the Second World War. In the 1990s after the end of the Cold War, tribunals like the International Criminal Tribunal for the former Yugoslavia and for Rwanda were the result of consensus that impunity is unacceptable. However, because they were established to try crimes committed only within a specific time-frame and during a specific conflict, there was general agreement that an independent, permanent criminal court was needed. On 17 July 1998, the international community reached an historic milestone when 120 States adopted the Rome Statute, the legal basis for establishing the permanent International Criminal Court. The Rome Statute entered into force on 1 July 2002 after ratification by 60 countries.

Jurisdiction

The ICC has jurisdiction over the most serious crimes of concern to the international community as a whole,

namely genocide, crimes against humanity and war crimes, when committed after 1 July 2002. Each of these crimes is clearly defined in the Rome Statute and other relevant texts. The Court will also have jurisdiction over the crime of aggression once the conditions adopted at the Rome Statute Review Conference held at Kampala (Uganda) in 2010 are fulfilled. The Court may exercise jurisdiction over such international crimes only if they were committed on the territory of a State Party or by one of its nationals. These conditions, however, do not apply if a situation is referred to the Prosecutor by the United Nations Security Council, whose resolutions are binding on all UN member states, or if a State makes a declaration accepting the jurisdiction of the Court.

The Court is intended to complement, not to replace, national criminal justice systems. It can prosecute cases only if national justice systems do not carry out proceedings or when they claim to do so but in reality are unwilling or unable to carry out such proceedings genuinely. This fundamental principle is known as the principle of complementarity.

The Prosecutor can initiate an investigation or prosecution in three different ways:

- States Parties to the Statute of the ICC can refer situations to the Prosecutor;
- the United Nations Security Council can request the Prosecutor to launch an investigation;
- the Office of the Prosecutor may initiate investigations *proprio motu* (on its own initiative) on the basis of information received from reliable sources. In this case, the Prosecutor must seek prior authorisation from a Pre-Trial Chamber composed of three independent judges.

No immunity

Acting in an official capacity as a head of state, member of government or parliament or as an elected representative or public official in no way exempts a person from prosecution or criminal responsibility. Superiors or military commanders may be held responsible for criminal offences committed by persons under their effective command and control or effective authority and control. However, the ICC cannot prosecute persons who were under the age of 18 at the time a crime was allegedly committed.

Rights of victims and accused

Under the rules and regulations governing the ICC, victims can send information to the Prosecutor concerning crimes within the jurisdiction of the Court. For the first time in the history of international criminal justice, victims have the right to participate in proceedings and request reparations. This means that they may not only testify as witnesses, but also present their views and concerns at all stages of the proceedings. Participants may receive legal representation and, potentially, legal aid.

The Registry assists victims and witnesses to exercise their rights, assists them throughout the judicial process and, if required, takes measures for their protection. The Court may order various types of reparation for victims which may include restitution, rehabilitation and compensation.

The States Parties to the Rome Statute have established a Trust Fund for Victims and families of victims of crimes within the jurisdiction of the Court, to make possible some form of reparation even when the convicted person does not have sufficient assets to make such reparation.

Protecting the rights of the accused is essential to ensure a fair trial and effective justice. The Registry, which is responsible for defence issues, has opened a list of counsel with a view to making sure that, in accordance with the Rules of Procedure and Evidence, lawyers practising before the Court are competent and adhere to the Code of Professional Conduct for Counsel throughout proceedings. The ICC provides logistical assistance and, if necessary, financial aid to defence teams.

The Organs of the Court

The Presidency

The Presidency is comprised of the President and two Vice-Presidents. They are elected from among the 18 judges of the ICC. The Presidency is responsible for the proper administration of the Court, except for the Office of the Prosecutor. However, it coordinates with and seeks the agreement of the Prosecutor on all matters of mutual concern. The responsibilities of the Presidency also include judicial functions and external relations.

The Divisions

Eighteen judges make up the three Divisions of the Court: Pre-Trial, Trial and Appeals. Recognised for their high moral character and integrity, they are chosen from candidates from throughout the world by the Assembly of States Parties, on the basis of their competence in criminal law and procedure or relevant areas of international law, such as international humanitarian law and human rights. The judges are responsible for ensuring that the trials are fair and that justice is properly administered.

The Office of the Prosecutor (OTP)

The Office of the Prosecutor is headed by the Prosecutor, who is assisted by a Deputy Prosecutor. Both are elected by the Assembly of States Parties. The mandate of the Office is to receive and analyse referrals and communications in order to determine whether there is a reasonable basis to investigate, to conduct investigations into genocide, crimes against humanity and war crimes and to prosecute persons responsible for such crimes. The OTP is an independent organ of the Court.

The Registry

The Registry is a neutral ICC organ headed by the Registrar. Its core functions are to provide administrative and operational support to the judiciary and to the Office of the Prosecutor. It helps to service the Court and to develop effective mechanisms to protect witnesses, assist the defence teams, as well as conducting outreach activities. The Registry is also responsible for general court management, security, public information, court records, translation and interpretation, counsel support, support for victims to participate in proceedings and apply for reparations, and much more.

The Assembly of States Parties (ASP)

The Assembly of States Parties is the Court's management oversight and legislative body and is composed of representatives of the States which have ratified or acceded to the Rome Statute. The Assembly of States Parties has a Bureau, consisting of a President, two Vice-Presidents and 18 members elected by the Assembly for a three-year term, taking into consideration equitable geographic distribution and adequate representation of the world's principal legal systems. It has a permanent secretariat at the seat of the Court in The Hague. The Assembly of States Parties makes decisions on various issues, such as the adoption of normative texts and the budget, the election of the judges and the election of the Prosecutor and Deputy Prosecutors.